

REMARKS

INTRODUCTION:

In accordance with the foregoing, claims 1-8, 10-14, 16-25, and 27 have been amended to improve form and to clarify the recited invention, not for the purposes of overcoming prior art. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1-29 are pending and under consideration.

ENTRY OF AMENDMENT UNDER 37 C.F.R. §1.116:

Applicant requests entry of this Rule 116 Response because:

(1) the amendments of claims 1-8, 10-14, 16-25, and 27 should not entail any further search by the Examiner since no new features are being added or no new issues are being raised; and

(2) the amendments do not significantly alter the scope of the claims and place the application at least into a better form for purposes of appeal. No new features or new issues are being raised.

The Manual of Patent Examining Procedures sets forth in Section 714.12 that “any amendment that would place the case either in condition for allowance or in better form for appeal may be entered.” Moreover, Section 714.13 sets forth that “the Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified.” The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

REJECTION UNDER 35 U.S.C. §102:

In the Office Action at page 16, the Examiner restates the rejection of claims 1-3, 5-10, 12-15, 19-23, and 25-29 under 35 U.S.C. §102(b) in view of Yuen (U.S. Patent No. 5,659,367). This rejection is traversed and reconsideration is requested.

In rejecting claim 1 on page 2, the Examiner states that Yuen discloses a method of “acquiring the program guide information for each channel by scanning accessible channels while a received program is not displayed.” Specifically, the Examiner states that Yuen discloses that the television guide is accessed while the television monitor is OFF. By way of review, the process by which the guide is accessed is disclosed in FIG. 22 of Yuen. As shown in FIG. 22, the device determines if the television is OFF in step 902. If the television is OFF, Yuen discloses beginning to acquire the guide, but only if it is also time for accessing the guide. Step 906. After the guide has been received and stored, the programming is again received. Steps 918 and 922. There is no disclosure that the programming and the guide are both received at the same time. Instead, Yuen discloses the guide and programming being received at different times, which is why the guide is disclosed as being broadcast at times such as 2:00 AM or 4:00 AM, when programming viewership is typically low. In addition, Yuen discloses delaying receiving the guide if the television is ON. Col. 20 & 21, lines 63-67 & 1-10. Thus, Yuen discloses that the receiving of the guide and the receiving of the programming are mutually exclusive events.

In contrast, claim 1 recites “acquiring the program guide information for each channel by scanning accessible channels while the received program is not displayed.” Thus, claim 1 recites the two events, the acquiring of program guide information and the receiving of the program, are not mutually exclusive. In order to clarify this feature, claim 1 has been amended to positively recite “receiving the program guide information and a program” and “acquiring the program guide information ... while the program being received is not displayed.” Therefore, it is respectfully submitted that, contrary to the assertion of the Examiner, Yuen does not disclose or suggest “acquiring the program guide information for each channel by scanning accessible channels while the received program is not displayed” as recited in claim 1.

In rejecting claim 3 on page 3, the Examiner states that Yuen discloses acquiring and storing program guide information, and displaying the program list of channels “in response to a program guide command.” As a point of clarification, while the recited “displaying the written

program list” is in response to the program guide command, so is the entire program guide method recited in claim 3. Thus, the acquiring of the program guide information is also recited as being in response to the program guide command. In order to clarify this relationship, claim 3 has been amended to positively recite “acquiring program guide information of accessible channels *in response to the program guide command.*”

By way of review, Yuen discloses the acquisition of a guide based upon whether it was “time for accessing the guide.” FIG. 22A, Step 906, Col. 22, lines 41-49. This guide is stored when received in RAM 752. Cols. 21 & 22, lines 65-67 & 1-3. When the device in Yuen displays the guide, the guide displayed is based upon the guide information stored in RAM 752, which is necessarily the guide acquired at the last “time for accessing the guide.” Col. 22, lines 1-3. Thus the guide displayed is necessarily old since the guide information is only stored once a day. As disclosed, the guide displayed reflects guide information broadcast up to 24 hours earlier. Col. 20 & 21, lines 63-67 & 1-10. There is no disclosure in Yuen that the program guide command also stimulates the device to acquire fresh guide information so as to update the guide during display. Thus, it is respectfully submitted that, contrary to the assertion of the Examiner, the Yuen does not disclose or suggest “acquiring program guide information of accessible channels *in response to the program guide command*” as recited in claim 3.

In rejecting claim 12 on page 6, the Examiner states that Yuen discloses acquiring and storing a program guide information, and rewriting the program guide information on the basis of the stored program guide information. By way of review, Yuen discloses the writing and displaying of a guide in response to a program guide command, but does not disclose the acquiring updated guide information while the guide is displayed. Instead, the guide is based upon the guide information stored in RAM 752, which is necessarily unchanging as it is only updated once a day, and is not updated while the television is ON. Col. 20 & 21, lines 63-67 & 1-10. Thus, necessarily, Yuen does not disclose rewriting and redisplaying the guide based upon the update guide information that was acquired while the guide was referred. Therefore, it is respectfully submitted that, contrary to the assertion of the Examiner, Yuen does not disclose or

suggest “acquiring program guide information for each channel by searching for accessible channels *in a background operation while the program list is referred to,*” “*rewriting a program list on the basis of the stored program guide information,*” and “*displaying the rewritten program list*” as recited in claim 12.

In rejecting claim 19 on page 7, the Examiner states that Yuen discloses an apparatus that utilizes a tuner to detect, acquire, and store information in response to a program guide command. However, Yuen discloses a controller that detects, acquires, and stores guide information either continuously or at preset times, but not in response to the program guide command. Cols. 21 & 22, lines 57-67 & 1, Steps 906 & 914, col. 22, lines 56-64. Yuen does not disclose that, while a guide is being displayed, that the apparatus searches for accessible channels, or that any other similar operation is performed during the display of the guide. Step 922. Further, there is no disclosure that the search for accessible channels is performed in response to a manipulation of the input device. As such, it is respectfully submitted that, contrary to the assertion of the Examiner, Yuen does not disclose or suggest “said microprocessor, in response to the manipulation command input via said key input, ... searches for accessible channels by controlling said tuner in a background operation while a user refers to the program list” as recited in claim 19.

In rejecting claim 28 on page 10, the Examiner states that Yuen discloses an apparatus having both “means for detecting program guide information corresponding to channels in relation to a tuned channel,” and “means for searching for accessible channels of the channels based upon a command received, the program guide information, and a relation to the tuned channel.” Yuen discloses a controller that detects, acquires, and stores all available program guide information either continuously or at preset times. This process involves the tuner 744 tuning to each channel, detecting, and storing guide information if the tuned channel is receiving a television signal containing guide information, and sequentially proceeding to the next channel. Col. 21, lines 57-65. This process is disclosed as being independent of a tuned channel since, during the acquisition and storage of guide information, Yuen discloses simply downloading all

of the guide information for all channels. Further Yuen discloses doing so when the television is OFF, or is otherwise not tuned to a program. Col. 20, lines 63-67. As such, contrary to the assertion of the Examiner, Yuen does not disclose an apparatus having either “means for detecting program guide information corresponding to channels *in relation to a tuned channel*,” or “means for searching for accessible channels of the channels based upon a command received, the program guide information, and a *relation to the tuned channel*” as recited in claim 28.

Claims 2 and 26 are deemed patentable due at least to their depending from independent claim 1. Claims 5-10 and 27 are deemed patentable due at least to their depending from independent claim 3. Claims 13-15 are deemed patentable due at least to their depending from independent claim 12. Claims 20-23 and 25 are deemed patentable due at least to their depending from independent claim 19. Claim 29 is deemed patentable due at least to the arguments for the patentability of claim 28.

REJECTION UNDER 35 U.S.C. §103:

In the Office Action at page 22, the Examiner restates the rejection of claim 4 under 35 U.S.C. §103(a) in view of Yuen and it being commonly known to display a message to a user informing the user to wait. The Examiner cited Yuen as providing all of the other steps and structure. The rejection is traversed and reconsideration is requested.

Since the Examiner relied upon the method disclosed in Yuen to disclose the program guide method, assuming *arguendo* that it is common knowledge to display a message to a user informing the user to wait, this common knowledge does not cure the above noted deficiencies in Yuen with regard to independent claim 3. Therefore, it is respectfully submitted that, contrary to the assertions of the Examiner, the combination does not disclose or suggest the elements of claim 4 due at least to its depending from independent claim 3.

In the Office Action at page 22, the Examiner restated the rejection of claims 11, 16-18, and 24 under 35 U.S.C. §103(a) in view of Yuen and Saitoh (U.S. Patent No. 5,444,499). The Examiner cited Saitoh as disclosing a controller that calculates a probability that channels are to

be selected according to the number of times that the channels are tuned by the user, and searches the channels in an order of priority according to the probability that the user will tune to those channels. The rejection is traversed and reconsideration is requested.

Assuming arguendo that Saitoh does disclose the stated feature, and that the combination is otherwise proper, the combination does not cure the above noted deficiency with the regard to independent claims 3 and 19. Therefore, it is respectfully submitted that the combination of Yuen and Saitoh does not disclose or suggestion the elements of claims 11 and 16-18 due at least to their depending on independent claim 3, or of claim 24 due to its depending from independent claim 19.

CONCLUSION:

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, it is respectfully submitted that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.


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If there are any additional fees associated with the filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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